

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
65.78.6.204,

Defendant.
-----X

15 CV 1829
Civil Action No. _____

**COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT**

JUDGE CARTER

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 65.78.6.204, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network (“BitTorrent”) is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent’s popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer’s BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit (“bit hash”) acts as that bit’s unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value (“file hash”), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

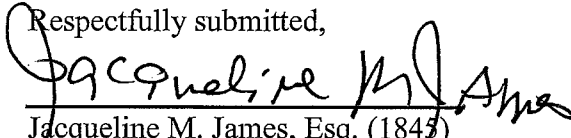
(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,
By: 
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Attorneys for Plaintiff

File Hashes for IP Address 65.78.6.204

ISP: RCN Corporation

Physical Location: New York, NY

Hit Date UTC	File Hash	Title
12/18/2014 05:37:20	EB4437DC04B657CF0BF856F8A58699693DB9B340	Fashion Models Are Bisexual
12/14/2014 21:16:43	6384238DDF45393913F50EDB0AECC3CDF2835C4	Blonde Perfection
12/14/2014 21:13:37	5920EB1A4A7002F1BBD0B48DD9C46F2308CD2539	Watching
12/14/2014 21:09:49	EB06CEC9FE3929712B647BA17F7E7301F9DAC094	First Time
12/09/2014 01:16:33	84C5E1CE642BF837D12E74FFAC74845FD0667ED6	Under My Blanket
12/08/2014 03:26:27	2C4D7C5091C2C3D4E713B8D4CA6893C201E1119B	I Want You To Want Me
11/30/2014 18:16:32	D5ABE1D926E20F257D3ECF003F28A733C2801684	Forever You Part #2
11/29/2014 01:36:20	1C190E00D17D24F8796721DA50C5CD153D440189	Light My Fire
11/24/2014 06:05:31	21C115FB34216589DFB3D178B60FDE21C242F47C	Forever You Part #1
11/23/2014 06:15:01	6650C8A190BA04EBC731EDF5125A75D9F97DE63D	Fuck Me More
11/08/2014 23:58:07	2A4D7C0AB461F59DD1C2844E46EC241A16C3560A	Sapphically Sexy
11/02/2014 01:26:16	B2BE8CED9707899AAF5C35F69A38200723690B60	Sunset Memories
10/27/2014 05:35:14	85957A8702E1D45316CC325868D40DDA1326F63F	A Cloudy Hot Day
10/27/2014 05:22:45	87EAA853792D2D80155FE7D083A363C7803731D4	Do Me Darling
10/27/2014 05:19:45	FF7C7866F11E1C9D0F203241D206995C8D87569A	Dripping Desires
10/27/2014 05:17:11	9F1BCB13265E3185001B40420DC655A8E1EF7A75	Double Oh Heaven
10/13/2014 19:57:24	EF2CE7C64AD0B9CCEFE52D9728E1D82D0349C4D	Spanish Heat
10/12/2014 05:51:22	8B4960BEF62639C6513A1EAE1FB0E706AE78B00B	Awe Inspiring Orgy
10/04/2014 21:28:02	B30A711F1E364239AD8833A8065FC200CD79BFA3	Kacey Jordan Does Xart
09/15/2014 05:43:42	E7457A133CFF1ABB455A70565294CB66D916FF91	Four Ways
09/09/2014 05:38:06	5C5754B5C8331B230119E97332848690BD0EB76F	Our Little Cum Cottage
08/26/2014 06:10:15	1806A13DA05A9E90EF21AA9E3BB038E25C628AD0	Paint Me White

EXHIBIT A

Hit Date UTC	File Hash	Title
08/26/2014 06:05:49	EC4156F34DE33A96DE08FDD1288BF48643A72366	Sexy En Noir
08/15/2014 02:20:15	AE39BB805BC77C2091586ABBF9969875054EC6C0	For Your Eyes Only
08/15/2014 02:16:27	4AF5B7A945F14CCEAF6B0BBD3DE1676163E2A041	Thunderstorm Love
08/05/2014 06:46:30	56AB4ECA407269FB68698C873485AA3B68A6C332	Any And All For You
07/28/2014 02:52:40	219F3C676427D47A0AFD296992A3DBEBEC81068C	Highrise Rendezvous
07/13/2014 22:13:58	E94F753F299D4968019055C9C7A8DBB9C837C5DF	Summertime Lunch
07/13/2014 22:13:19	6CA5F002A486212AD9A0E265E6C0AFE4A3A2E681	Chloe Loves Carl Part 2
07/13/2014 22:02:05	E3A71DD395A10CEC53EEAA6F81BED0EC4FEDFD20	Sweet Awakening
07/02/2014 04:03:26	9B18995FF4BF5957CB9CB3A4E3119A82475181C3	Cut Once More Please
06/28/2014 23:15:15	742320B263F71DF6392F26BE6F75CBFC82688AD8	Sexy In The City
06/26/2014 06:57:26	309EEA52C9625E8912CF8BA075FF411098281DA3	Drinks For Two
06/24/2014 02:59:18	3EFA1185D154CD0E94911E672C6A71D2EE46AF6F	Morning Glory
06/17/2014 00:29:39	87F3B9C4D3E902D6347FAD2719A5400D1B508CC0	They Seem so Sweet
06/13/2014 06:01:45	56C04CA9749582B5ECECC63469FE184B45CC2E	Enjoy My Backdoor
06/07/2014 19:43:32	676D3A4A4F169A41FB7097F347320A6574E601D3	Dancing Romance
05/24/2014 04:47:57	0A05FD57476DB076D85453C9C23FEF5794899100	Perfect Timing
05/24/2014 04:29:25	8483D212ACA0879401ACF43308B0E15C2FEADAC7	Two By Two
05/20/2014 01:02:19	AD6C1AD8FCBA53716EA0396B4FB289EDAC788DF6	From Three to Four
05/17/2014 23:04:19	0EA2EC08BA5DB34365E0C698AF6A6EDFC96EC72C	Meet My Lover From Austria
05/11/2014 08:37:12	06AC7448218B6AC5F63B777630398DDCCD763FEC	Rope Priority

Total Statutory Claims Against Defendant: 42

EXHIBIT A

Copyrights-In-Suit for IP Address 65.78.6.204

ISP: RCN Corporation

Location: New York, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Fashion Models Are Bisexual	PA0001926085	12/16/2014	12/29/2014	12/18/2014
Blonde Perfection	PA0001926061	12/10/2014	12/29/2014	12/14/2014
Watching	PA0001926090	12/14/2014	12/29/2014	12/14/2014
First Time	PA0001926092	12/13/2014	12/29/2014	12/14/2014
Under My Blanket	PA0001925298	12/08/2014	12/10/2014	12/09/2014
I Want You To Want Me	PA0001925335	12/06/2014	12/10/2014	12/08/2014
Forever You Part #2	PA0001923966	11/30/2014	12/08/2014	11/30/2014
Light My Fire	PA0001923961	11/28/2014	12/08/2014	11/29/2014
Forever You Part #1	PA0001923965	11/23/2014	12/08/2014	11/24/2014
Fuck Me More	PA0001923957	11/22/2014	12/08/2014	11/23/2014
Sapphically Sexy	PA0001921542	11/05/2014	11/09/2014	11/08/2014
Sunset Memories	PA0001921296	10/31/2014	11/06/2014	11/02/2014
A Cloudy Hot Day	PA0001918790	10/19/2014	10/22/2014	10/27/2014
Do Me Darling	PA0001921297	10/24/2014	11/06/2014	10/27/2014
Dripping Desires	PA0001918737	10/17/2014	10/22/2014	10/27/2014
Double Oh Heaven	PA0001918736	10/15/2014	10/22/2014	10/27/2014
Spanish Heat	PA0001917709	10/13/2014	10/19/2014	10/13/2014
Awe Inspiring Orgy	PA0001917712	10/11/2014	10/19/2014	10/12/2014
Kacey Jordan Does Xart	PA0001916065	10/04/2014	10/06/2014	10/04/2014
Four Ways	PA0001914532	09/13/2014	09/16/2014	09/15/2014
Our Little Cum Cottage	PA0001914537	09/05/2014	09/17/2014	09/09/2014

EXHIBIT B

SNY116

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Paint Me White	PA0001909785	08/24/2014	08/26/2014	08/26/2014
Sexy En Noir	PA0001909783	08/22/2014	08/26/2014	08/26/2014
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	08/15/2014
Thunderstorm Love	PA0001909507	08/13/2014	08/26/2014	08/15/2014
Any And All For You	PA0001908677	08/02/2014	08/11/2014	08/05/2014
Highrise Rendezvous	PA0001908213	07/25/2014	07/31/2014	07/28/2014
Summertime Lunch	PA0001907078	07/11/2014	07/25/2014	07/13/2014
Chloe Loves Carl Part 2	PA0001906561	07/05/2014	07/14/2014	07/13/2014
Sweet Awakening	PA0001907077	07/09/2014	07/27/2014	07/13/2014
Cut Once More Please	PA0001905491	07/01/2014	07/02/2014	07/02/2014
Sexy In The City	PA0001905511	06/27/2014	07/02/2014	06/28/2014
Drinks For Two	PA0001905512	06/25/2014	07/02/2014	06/26/2014
Morning Glory	PA0001902968	05/29/2014	06/06/2014	06/24/2014
They Seem so Sweet	PA0001904151	06/15/2014	06/19/2014	06/17/2014
Enjoy My Backdoor	PA0001904149	06/13/2014	06/19/2014	06/13/2014
Dancing Romance	PA0001903915	06/07/2014	06/12/2014	06/07/2014
Perfect Timing	PA0001895848	05/07/2014	05/16/2014	05/24/2014
Two By Two	PA0001898093	05/23/2014	06/06/2014	05/24/2014
From Three to Four	PA0001898059	05/19/2014	06/06/2014	05/20/2014
Meet My Lover From Austria	PA0001898094	05/17/2014	06/06/2014	05/17/2014
Rope Priority	PA0001895760	05/11/2014	05/16/2014	05/11/2014

Total Malibu Media, LLC Copyrights Infringed: 42